

I support a means for Amateur Radio operators to be able to test, practice, and implement encrypted communications specifically for use in emergency and disaster situations.

It may be interesting to review a request I submitted to the Northeast Region, Detroit Office in 2008. It was not a request for rulemaking, but rather a request for clarification on a suggested procedure to permit encryption in certain situations including training for emergency communications and actual emergency activations. The reasoning and description of the procedure may be useful in evaluating the current rulemaking request.

The response to the following request was simply that "97.113 (4) specifically restricts encryption".

To: James Bridgewater, District Director
Federal Communications Commission
Enforcement Bureau, Northeast Region, Detroit Office
24897 Hathaway Street
Farmington Hills, Michigan 48335-1552

Re: Request for procedure to protect confidentiality of specific emergency communications

Mr. Bridgewater:

I am president of a three-county Amateur Radio emergency communications organization covering Charlevoix, Cheboygan, and Emmet counties in Northern Michigan. We work closely with the professional emergency services in those counties, participating in emergency and disaster exercises and preparing to provide any necessary communications support that may be required. At present we have communications assets established at each of the county emergency operations centers and have a mobile communications trailer equipped to provide long-term on-site communications support. In an effort to ensure that we are able to provide full support to our county emergency managers we would like to establish specific procedures under which we may transmit sensitive or restricted information. I am communicating with you as the District Director as implied by 97.309 in your capacity to evaluate when it is necessary to "assure compliance" with these rules. Specifically, 97.309(3) provides for you to request us to maintain records "convertible to the original information" of the digital communications. From this we assume you have the authority to establish the specifics of a process by which we may maintain compliance with the spirit of the rules and still provide for necessary communications in support of our professional emergency services and other critical public

needs.

Specifically we propose to communicate in encrypted form the following types of information.

- 1.Information regarding the availability and deployment of critical emergency/disaster related assets for which public exposure would constitute a potential breach of security of those assets or would disclose sensitive information that could permit an adversarial party to inflict harm that otherwise would not have been likely.
- 2.Information that by its specific nature requires confidentiality to which emergency/disaster victims are entitled.
- 3.Information that is restricted from disclosure by law, such as restrictions imposed by HIPAA.
- 4.Simulated confidential communications for emergency/disaster preparedness exercises and communications tests.

Considering that Part 97 does already permit encryption of certain transmissions where security of those transmissions is critical (i.e. 91.211(a), obscuring the meaning of telecommand messages to a station in space operation) and that with appropriate procedures the actual content of our intended communications would be made available as required to ensure compliance, we propose the following procedures for the transmission and retention of content for these transmissions.

- 1.Confidential communications are only those associated with an actual emergency/disaster situation and requested by the served professional emergency services, and are not generated or transmitted on behalf of the Amateur Radio operators themselves or other persons or entities not directly responsible for management of the actual emergency or disaster.
- 2.Copies of all confidential communications are preserved in encrypted form for later evaluation by your office or by other competent authority along with a description of the time, reason, source, destination, and general purpose of the communication.
- 3.All confidential communications are encrypted using a single public-key encryption key created for either the specific emergency/disaster event or specific time period and for which the decryption key is made available to your office or other competent authority as requested.
- 4.Communications via Amateur radio gateways to specific Web sites operated by the professional emergency services or government entities for the purpose of managing emergency/disaster situations be permitted to use the "HTTPS" protocols these sites require. (A specific example is access to Michigan's "E Team" incident and event management system for which members of our

organization have access and training.)

5. Simulated confidential communications be permitted for emergency/disaster preparedness exercises and communications tests provided that compliance with items 2 and 3 above is maintained.

We believe that the need for flexibility in regard to the transmission of sensitive information is essential for public service Amateur Radio organizations such as ours to properly serve our professional emergency agencies and the greater public need in emergency and disaster situations. Not only does it seem important to offer our served agencies a backup and overflow capability for their established communications, some of which do required confidentiality, but it would seem to be prudent to offer the Amateur Radio services supporting their needs in an emergency or disaster the flexibility to serve those agencies as is needed to deal with situations as they arise.

We neither seek special exemption from the written rules for Amateur Radio nor any other additional capability beyond our participation with emergency and disaster communications support. What we seek is clarity in how to apply the rules as set forth in Part 97 and in cooperation with our associated FCC District Director and to establish procedures and protocols under which we can operate in the best interest of the public need and in known compliance as designated by your office.

We look forward to your response in this matter and are available for further explanation or refinement of the processes and protocols outlined above.

Sincerely,

Charles Scott, President
Charlevoix, Cheboygan, Emmet Counties Public Service Communications Organization